

AMENDMENTS TO LB 121

Introduced by Banking, Commerce and Insurance

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 18 of this act shall be known
4 and may be cited as the Captive Insurers Act.

5 Sec. 2. The purposes of the Captive Insurers Act are
6 to set forth the procedures for organizing and regulating the
7 operations of captive insurers within the State of Nebraska and to
8 encourage integrity, financial solvency, and stability of captive
9 insurers for the purpose of promoting the development of Nebraska
10 businesses.

11 Sec. 3. For purposes of the Captive Insurers Act:

12 (1) Affiliated entity means any entity that directly or
13 indirectly controls, is controlled by, or is under common control
14 with a captive insurer;

15 (2) Captive insurer means a domestic insurer authorized
16 under the act to provide insurance and reinsurance to its parent,
17 any affiliated entity, or both. Such insurance and reinsurance
18 shall be limited to the risks, hazards, and liabilities of its
19 parent and affiliated entities;

20 (3) Control means the power to direct or cause the
21 direction of the management and policies of an entity through
22 ownership of voting securities;

23 (4) Director means the Director of Insurance; and

1 (5) Parent means an entity that directly or indirectly
2 owns, controls, or holds, with power to vote, more than fifty
3 percent of the outstanding voting securities or other ownership
4 interest of a captive insurer.

5 Sec. 4. No captive insurer shall adopt the name of any
6 existing insurer or any name that may be misleading to the public.

7 Sec. 5. (1) No person shall transact the business
8 of insurance as a captive insurer without first applying for
9 and obtaining from the director a certificate of authority. An
10 applicant shall submit a nonrefundable application fee of five
11 hundred dollars with a plan of operation which includes:

12 (a) Articles of incorporation and bylaws or other
13 documents of organization;

14 (b) Pro forma financial statements for two years;

15 (c) The source and nature of initial and ongoing capital;

16 (d) A feasibility study which discloses the types and
17 adequacy of the insurance programs of the captive insurer, the
18 identity of the parent and affiliated entities benefiting from such
19 insurance program, and the relationships to the captive insurer as
20 well as all projected expenses, contracts, and a holding company
21 system chart identifying the ownership and relationship of the
22 parent and affiliated entities;

23 (e) Copies of all insurance and reinsurance agreements
24 of the captive insurer as well as disclosure of all transactions
25 material to the insurance operations;

26 (f) Financial condition of the parent and, if requested
27 by the director, any affiliated entities, benefiting from the

1 captive insurance program;

2 (g) A management overview including competence,
3 experience, and integrity of those controlling the insurance
4 operations;

5 (h) A statement submitting to the jurisdiction of the
6 director; and

7 (i) An explanation of how the operation of the captive
8 insurer promotes the development of a Nebraska business.

9 (2) If the plan of operation is accepted and approved
10 by the director, the articles and other documents of organization
11 shall be filed in the office of the Secretary of State. A copy of
12 the articles or other documents of organization, certified by the
13 Secretary of State, shall be filed with the director. Amendments
14 to organizational documents shall be deemed a change to the plan
15 of operation and shall be filed with and approved by the director
16 before they are submitted to the Secretary of State.

17 (3) The director may refuse to issue a certificate of
18 authority until he or she is reasonably satisfied that the plan of
19 operation contains sufficient indication of a successful insurance
20 operation and that the captive insurer will be able to meet
21 expected or ongoing policy obligations.

22 (4) A captive insurer shall obtain prior written approval
23 of any subsequent amendments to any components of the original plan
24 of operation. The director shall deem that any captive insurer that
25 has failed to disclose a transaction or a series of transactions
26 that would circumvent the Captive Insurers Act to be in hazardous
27 financial condition with respect to the public or its policyholders

1 and subject to suspension or revocation of the certificate of
2 authority of the captive insurer.

3 (5) A captive insurer may transact any line or lines
4 of insurance specified in subdivisions (5), (7), (8), (9),
5 (10), and (18) of section 44-201. A captive insurer shall
6 not transact directors and officers insurance or motor vehicle
7 liability insurance.

8 (6) Every captive insurer shall provide to the director
9 books and records in the state as to enable the financial
10 examination of the captive insurer by the director.

11 Sec. 6. A board of directors or other governing body
12 consisting of not less than three individuals shall manage the
13 business of each captive insurer. The organizational documents or
14 bylaws shall provide for the terms, meetings, and elections of the
15 directors and officers of the governing body. No individual may
16 serve as a director or officer who has been convicted of fraud
17 involving any financial institution or of a felony involving misuse
18 of funds.

19 Sec. 7. The certificate of authority issued to a captive
20 insurer shall expire on June 30 of each year. The director shall
21 renew the certificate of authority upon payment of an annual
22 renewal fee of five hundred dollars and all other required fees and
23 the filing of all required reports.

24 Sec. 8. (1) Every captive insurer with a certificate
25 of authority to transact business in this state pursuant to the
26 Captive Insurers Act shall file with the director a report, signed
27 and sworn to by its chief officers, of its financial condition as

1 of the end of each fiscal year. The report shall be in a form
2 prescribed by the director and contain such information as the
3 director deems necessary for the purpose of ascertaining whether
4 the captive insurer can continue to meet its policy obligations to
5 its parent, affiliated entities, and claimants. The report shall be
6 filed within sixty days following the end of the captive insurer's
7 fiscal year. The director may require that the report include the
8 information required by section 44-322, including any instructions,
9 procedures, and guidelines consistent with the act.

10 (2) The director may prescribe the format and frequency
11 of other reports to be filed, which may include, but not be
12 limited to, summary loss reports, quarterly financial statements,
13 audited annual financial statements, holding company statements,
14 biographical information on officers and directors, and other
15 professional reports.

16 Sec. 9. (1) No captive insurer shall be permitted to
17 transact any business in this state unless it maintains total
18 capital and surplus in the amount of at least one hundred thousand
19 dollars in such form as is acceptable to the director.

20 (2) Upon a written finding by the director that the
21 approved plan of operation or the operational results of the
22 captive insurer require either additional capital or a larger
23 surplus than required by this section, the director may require
24 that additional capital or surplus, or both, be obtained.
25 Additional capital or surplus may be tendered in the form of an
26 irrevocable evergreen letter of credit acceptable to the director.

27 (3) Any letter of credit provided to satisfy the

1 requirements of the Captive Insurers Act shall be:

2 (a) Jointly held under the control of the director and
3 the captive insurer for the benefit of claimants;

4 (b) Issued or confirmed by an institution that is insured
5 by the Federal Deposit Insurance Corporation;

6 (c) The sole property of such captive insurer; and

7 (d) Free and clear of any claim or encumbrance.

8 Sec. 10. The director may examine the financial
9 condition, affairs, and management of any applicant or captive
10 insurer pursuant to the Insurers Examination Act.

11 Sec. 11. (1) Captive insurers shall be subject to the
12 types and nature of investments as set forth in the Insurers
13 Investment Act, but not subject to any limitations contained in
14 such act as to invested amounts, except that the director may
15 prohibit or limit any investment that threatens the solvency or
16 liquidity of any such captive insurer or if such investments are
17 not made in accordance with the approved plan of operation.

18 (2) No captive insurer may make a loan to or an
19 investment in its parent or affiliated entities without prior
20 written approval of the director and any such transaction shall
21 be evidenced by documentation approved by the director. Loans of
22 minimum capital and surplus funds are prohibited.

23 Sec. 12. (1) Except as otherwise provided in subsection
24 (2) of this section, any captive insurer authorized to do business
25 in this state may take credit for reserves on risks ceded to
26 a reinsurer pursuant to the provisions of sections 44-416.05 to
27 44-416.10 and any rules and regulations adopted and promulgated

1 under such sections.

2 (2) Notwithstanding the provisions of subsection (1) of
3 this section, any captive insurer may cede risks to a reinsurer not
4 meeting the standards of sections 44-416.05 to 44-416.10 and may
5 take reserve credits if the captive insurer receives prior written
6 approval from the director.

7 Sec. 13. A captive insurer shall not be a member of the
8 Nebraska Property and Liability Insurance Guaranty Association or
9 the Nebraska Life and Health Insurance Guaranty Association. The
10 Nebraska Property and Liability Insurance Guaranty Association Act
11 and the Nebraska Life and Health Insurance Guaranty Association Act
12 shall not be applicable to coverage offered by a captive insurer.

13 Sec. 14. The director shall approve any voluntary
14 dissolution of a captive insurer if the director determines that
15 all obligations of the captive insurer have been satisfied. The
16 dissolution of a captive insurer shall not impair the right of any
17 person to commence an action against the captive insurer for any
18 liability previously incurred.

19 Sec. 15. (1) After notice and a hearing conducted
20 pursuant to the Administrative Procedure Act, the director may
21 suspend or revoke a certificate of authority or may impose
22 an administrative fine not to exceed one thousand dollars per
23 violation, or any combination of such actions, if the director
24 finds the captive insurer:

25 (a) Engages in financial practices that make further
26 transaction of business in this state hazardous or injurious to
27 claimants or the public as defined by rule and regulation adopted

1 and promulgated by the director;

2 (b) Within fifteen business days fails to respond to an
3 inquiry of the director;

4 (c) Fails to pay any final judgment rendered against it
5 in this state on any contractual obligation in a reasonable period
6 of time;

7 (d) Conducts business fraudulently or has not met its
8 contractual obligations in good faith; or

9 (e) Violates any provision of the laws of this or any
10 other state.

11 (2) In lieu of or in addition to the administrative fines
12 set forth in subsection (1) of this section, the director may
13 issue a cease and desist order to a captive insurer if the captive
14 insurer engages in any of the activities set forth in subsection
15 (1) of this section.

16 Sec. 16. (1) This section provides for the creation of
17 special purpose financial captive insurers to diversify and broaden
18 insurers' access to sources of capital.

19 (2) For purposes of this section:

20 (a) Counterparty means a special purpose financial
21 captive insurer's parent or affiliated entity, which is an insurer
22 domiciled in Nebraska that cedes life insurance risks to the
23 special purpose financial captive insurer pursuant to the special
24 purpose financial captive insurer contract;

25 (b) Insolvency or insolvent means that the special
26 purpose financial captive insurer is unable to pay its obligations
27 when they are due, unless those obligations are the subject of a

1 bona fide dispute;

2 (c) Insurance securitization means a package of
3 related risk transfer instruments, capital market offerings, and
4 facilitating administrative agreements, under which a special
5 purpose financial captive insurer obtains proceeds either directly
6 or indirectly through the issuance of securities, and may hold
7 the proceeds in trust to secure the obligations of the special
8 purpose financial captive insurer under one or more special purpose
9 financial captive insurer contracts, in that the investment risk to
10 the holders of the securities is contingent upon the obligations of
11 the special purpose financial captive insurer to the counterparty
12 under the special purpose financial captive insurer contract in
13 accordance with the transaction terms and pursuant to the Captive
14 Insurers Act;

15 (d) Organizational document means the special purpose
16 financial captive insurer's articles of incorporation, articles of
17 organization, bylaws, operating agreement, or other foundational
18 documents that establish the special purpose financial captive
19 insurer as a legal entity or prescribes its existence;

20 (e) Permitted investments means those investments that
21 meet the qualifications set forth in section 11 of this act;

22 (f) Securities means debt obligations, equity
23 investments, surplus certificates, surplus notes, funding
24 agreements, derivatives, and other legal forms of financial
25 instruments;

26 (g) Special purpose financial captive insurer means a
27 captive insurer which has received a certificate of authority from

1 the director for the limited purposes provided for in this section;

2 (h) Special purpose financial captive insurer contract
3 means a contract between the special purpose financial captive
4 insurer and the counterparty pursuant to which the special
5 purpose financial captive insurer agrees to provide insurance
6 or reinsurance protection to the counterparty for risks associated
7 with the counterparty's insurance or reinsurance business; and

8 (i) Special purpose financial captive insurer securities
9 means the securities issued by a special purpose financial captive
10 insurer.

11 (3) (a) The provisions of the Captive Insurers Act, other
12 than those in subdivision (3) (b) of this section, apply to a
13 special purpose financial captive insurer. If a conflict occurs
14 between a provision of the act not in this section and a provision
15 of this section, the latter controls.

16 (b) The requirements of this section shall not apply to
17 specific special purpose financial captive insurers if the director
18 finds a specific requirement is inappropriate due to the nature of
19 the risks to be insured by the special purpose financial captive
20 insurer and if the special purpose financial captive insurer
21 meets criteria established by rules and regulations adopted and
22 promulgated by the director.

23 (4) A special purpose financial captive insurer may be
24 established as a stock corporation, limited liability company,
25 partnership, or other form of organization approved by the
26 director.

27 (5) (a) A special purpose financial captive insurer may

1 not issue a contract for assumption of risk or indemnification
2 of loss other than a special purpose financial captive insurer
3 contract. However, the special purpose financial captive insurer
4 may cede risks assumed through a special purpose financial captive
5 insurer contract to third-party reinsurers through the purchase of
6 reinsurance or retrocession protection if approved by the director.

7 (b) A special purpose financial captive insurer may enter
8 into contracts and conduct other commercial activities related
9 or incidental to and necessary to fulfill the purposes of the
10 special purpose financial captive insurer contract, insurance
11 securitization, and this section. Those activities may include,
12 but are not limited to: Entering into special purpose financial
13 captive insurer contracts; issuing securities of the special
14 purpose financial captive insurer in accordance with applicable
15 securities law; complying with the terms of these contracts
16 or securities; entering into trust, swap, tax, administration,
17 reimbursement, or fiscal agent transactions; or complying with
18 trust indenture, reinsurance, retrocession, and other agreements
19 necessary or incidental to effectuate an insurance securitization
20 in compliance with this section and in the plan of operation
21 approved by the director.

22 (6) (a) A special purpose financial captive insurer may
23 issue securities, subject to and in accordance with applicable law,
24 its approved plan of operation, and its organization documents.

25 (b) A special purpose financial captive insurer, in
26 connection with the issuance of securities, may enter into and
27 perform all of its obligations under any required contracts to

1 facilitate the issuance of these securities.

2 (c) The obligation to repay principal or interest, or
3 both, on the securities issued by the special purpose financial
4 captive insurer shall be designed to reflect the risk associated
5 with the obligations of the special purpose financial captive
6 insurer to the counterparty under the special purpose financial
7 captive insurer contract.

8 (7) A special purpose financial captive insurer may
9 enter into swap agreements, or other forms of asset management
10 agreements, including guaranteed investment contracts, or other
11 transactions that have the objective of leveling timing differences
12 in funding of up-front or ongoing transaction expenses or managing
13 asset, credit, prepayment or interest rate risk of the investments
14 in the trust to ensure that the investments are sufficient to
15 assure payment or repayment of the securities, and related interest
16 or principal payments, issued pursuant to a special purpose
17 financial captive insurer insurance securitization transaction or
18 the obligations of the special purpose financial captive insurer
19 under the special purpose financial captive insurer contract or for
20 any other purpose approved by the director. All asset management
21 agreements entered into by the special purpose financial captive
22 insurer must be approved by the director.

23 (8)(a) A special purpose financial captive insurer,
24 at any given time, may enter into and effectuate a special
25 purpose financial captive insurer contract with a counterparty if
26 the special purpose financial captive insurer contract obligates
27 the special purpose financial captive insurer to indemnify the

1 counterparty for losses and that contingent obligations of the
2 special purpose financial captive insurer under the special purpose
3 financial captive insurer contract are securitized through a
4 special purpose financial captive insurer insurance securitization,
5 which security for such obligations may be funded and secured with
6 assets held in trust for the benefit of the counterparty pursuant
7 to agreements contemplated by this section and invested in a manner
8 that meet the criteria as provided in section 11 of this act.

9 (b) A special purpose financial captive insurer may
10 enter into agreements with affiliated companies and third parties
11 and conduct business necessary to fulfill its obligations and
12 administrative duties incidental to the insurance securitization
13 and the special purpose financial captive insurer contract. The
14 agreements may include management and administrative services
15 agreements and other allocation and cost sharing agreements, or
16 swap and asset management agreements, or both, or agreements for
17 other contemplated types of transactions provided in this section.

18 (c) A special purpose financial captive insurer contract
19 must contain provisions that:

20 (i) Require the special purpose financial captive insurer
21 to either (A) enter into a trust agreement specifying what
22 recoverables or reserves, or both, the agreement is to cover and
23 to establish a trust account for the benefit of the counterparty
24 and the security holders or (B) to establish such other method of
25 security acceptable to the director;

26 (ii) Stipulate that assets deposited in the trust account
27 must be valued in accordance with their current fair market value

1 and must consist only of permitted investments;

2 (iii) If a trust arrangement is used, require the special
3 purpose financial captive insurer, before depositing assets with
4 the trustee, to execute assignments, endorsements in blank, or to
5 take such actions as are necessary to transfer legal title to
6 the trustee of all shares, obligations, or other assets requiring
7 assignments, in order that the counterparty, or the trustee upon
8 the direction of the counterparty, may negotiate whenever necessary
9 the assets without consent or signature from the special purpose
10 financial captive insurer or another entity; and

11 (iv) If a trust arrangement is used, stipulate that the
12 special purpose financial captive insurer and the counterparty
13 agree that the assets in the trust account, established pursuant
14 to the provisions of the special purpose financial captive insurer
15 contract, may be withdrawn by the counterparty, or the trustee on
16 its behalf, at any time, only in accordance with the terms of
17 the special purpose financial captive insurer contract, and must
18 be utilized and applied by the counterparty or any successor of
19 the counterparty by operation of law, including, subject to the
20 provisions of this section, but without further limitation, any
21 liquidator, rehabilitator, receiver, or the counterparty, without
22 diminution because of insolvency on the part of the counterparty
23 or the special purpose financial captive insurer, only for the
24 purposes set forth in the counterparty's domiciliary credit for
25 reinsurance laws and rules and regulations.

26 (d) The special purpose financial captive insurer
27 contract may contain provisions that give the special purpose

1 financial captive insurer the right to seek approval from the
2 counterparty to withdraw from the trust all or part of the assets,
3 or income from them, contained in the trust and to transfer the
4 assets to the special purpose financial captive insurer if such
5 provisions comply with the counterparty's domiciliary credit for
6 reinsurance laws, rules, and regulations.

7 (9) A special purpose financial captive insurer contract
8 meeting the provisions of this section must be granted credit
9 for reinsurance treatment or otherwise qualify as an asset or
10 a reduction from liability for reinsurance ceded by a domestic
11 insurer to a special purpose financial captive insurer as an
12 assuming insurer for the benefit of the counterparty if and only to
13 the extent:

14 (a) Of the value of the assets held in trust, for,
15 or clean, irrevocable, unconditional letters of credit, issued or
16 confirmed by a qualified United States financial institution as
17 defined in section 44-416.08, or as approved by the director, for
18 the benefit of the counterparty under the special purpose financial
19 captive insurer contract; and

20 (b) The assets are held or invested in one or more of the
21 forms allowed in section 11 of this act.

22 (10) (a) (i) Notwithstanding the provisions of the Nebraska
23 Insurers Supervision, Rehabilitation, and Liquidation Act, the
24 director may apply to the district court of Lancaster County for
25 an order authorizing the director to rehabilitate or liquidate a
26 special purpose financial captive insurer domiciled in this state
27 on one or more of the following grounds:

1 (A) There has been embezzlement, wrongful sequestration,
2 dissipation, or diversion of the assets of the special purpose
3 financial captive insurer intended to be used to pay amounts owed
4 to the counterparty or the holders of special purpose financial
5 captive insurer securities; or

6 (B) The special purpose financial captive insurer is
7 insolvent and the holders of a majority in outstanding principal
8 amount of each class of special purpose financial captive insurer
9 securities request or consent to conservation, rehabilitation, or
10 liquidation pursuant to the provisions of this section.

11 (ii) The court may not grant relief provided by
12 subdivision (10)(a)(i) unless, after notice and a hearing, the
13 director establishes that relief must be granted.

14 (b) Notwithstanding any other application of law, rule,
15 or regulation, upon any order of rehabilitation or liquidation of
16 a special purpose financial captive insurer, the receiver shall
17 manage the assets and liabilities of the special purpose financial
18 captive insurer pursuant to the provisions of subsection (11) of
19 this section.

20 (c) With respect to amounts recoverable under a special
21 purpose financial captive insurer contract, the amount recoverable
22 by the receiver must not be reduced or diminished as a result
23 of the entry of an order of conservation, rehabilitation, or
24 liquidation with respect to the counterparty, notwithstanding
25 another provision in the contracts or other documentation
26 governing the special purpose financial captive insurer insurance
27 securitization.

1 (d) An application or petition, or a temporary
2 restraining order or injunction issued pursuant to the provisions
3 of the Nebraska Insurers Supervision, Rehabilitation, and
4 Liquidation Act, with respect to a counterparty does not prohibit
5 the transaction of a business by a special purpose financial
6 captive insurer, including any payment by a special purpose
7 financial captive insurer made pursuant to a special purpose
8 financial captive insurer security, or any action or proceeding
9 against a special purpose financial captive insurer or its assets.

10 (e) Notwithstanding the provisions of any applicable law
11 or rule or regulation, the commencement of a summary proceeding
12 or other interim proceeding commenced before a formal delinquency
13 proceeding with respect to a special purpose financial captive
14 insurer, and any order issued by the court does not prohibit
15 the payment by a special purpose financial captive insurer made
16 pursuant to a special purpose financial captive insurer security or
17 special purpose financial captive insurer contract or the special
18 purpose financial captive insurer from taking any action required
19 to make the payment.

20 (f) Notwithstanding the provisions of any other
21 applicable law, rule, or regulation:

22 (i) A receiver of a counterparty may not void a
23 nonfraudulent transfer by a counterparty to a special purpose
24 financial captive insurer of money or other property made pursuant
25 to a special purpose financial captive insurer contract; and

26 (ii) A receiver of a special purpose financial captive
27 insurer may not void a nonfraudulent transfer by the special

1 purpose financial captive insurer of money or other property made
2 to a counterparty pursuant to a special purpose financial captive
3 insurer contract or made to or for the benefit of any holder of
4 a special purpose financial captive insurer security on account of
5 the special purpose financial captive insurer security.

6 (g) With the exception of the fulfillment of the
7 obligations under a special purpose financial captive insurer
8 contract, and notwithstanding the provisions of any other
9 applicable law or rule or regulation, the assets of a special
10 purpose financial captive insurer, including assets held in trust,
11 must not be consolidated with or included in the estate of a
12 counterparty in any delinquency proceeding against the counterparty
13 pursuant to the provisions of this section for any purpose
14 including, without limitation, distribution to creditors of the
15 counterparty.

16 (11) A special purpose financial captive insurer may
17 not declare or pay dividends in any form to its owners other
18 than in accordance with the insurance securitization transaction
19 agreements, and in no instance shall the dividends decrease the
20 capital of the special purpose financial captive insurer below
21 two hundred fifty thousand dollars, and, after giving effect to
22 the dividends, the assets of the special purpose financial captive
23 insurer, including any assets held in trust pursuant to the terms
24 of the insurance securitization, must be sufficient to satisfy
25 the director that it can meet its obligations. Approval by the
26 director of an ongoing plan for the payment of dividends, interest
27 on securities or other distribution by a special purpose financial

1 captive insurer must be conditioned upon the retention, at the time
2 of each payment, of capital or surplus equal to or in excess of
3 amounts specified by, or determined in accordance with formulas
4 approved for the special purpose financial captive insurer by the
5 director.

6 (12) Information submitted pursuant to the provisions
7 of this section shall be given confidential treatment, shall not
8 be subject to subpoena, and shall not be made public by the
9 director or any other person, except to other state, federal,
10 foreign, and international regulatory and law enforcement agencies
11 if the recipient agrees in writing to maintain the confidentiality
12 of the information, without the prior written consent of the
13 special purpose financial captive insurer unless the director,
14 after giving the special purpose financial captive insurer notice
15 and opportunity to be heard, determines that the best interest of
16 policyholders, shareholders, or the public will be served by the
17 publication thereof, in which event he or she may publish all or
18 any part thereof in such manner as he or she may deem appropriate.

19 Sec. 17. The director may adopt and promulgate rules and
20 regulations to carry out the Captive Insurers Act.

21 Sec. 18. (1) The insurance laws of this state shall
22 not apply to captive insurers except as permitted in the Captive
23 Insurers Act.

24 (2) The following provisions of Chapter 44 apply to
25 captive insurers:

26 (a) The Insurers Examination Act;

27 (b) Sections 44-101, 44-101.01, 44-102, 44-103, 44-114,

1 44-116, 44-154, 44-205.01, 44-231, 44-301, 44-318, 44-320, 44-326,
2 and 44-360; and

3 (c) The Nebraska Insurers Supervision, Rehabilitation,
4 and Liquidation Act. Such act shall only apply to a captive insurer
5 that provides insurance and reinsurance to a parent or affiliated
6 entity that is an insurer.

7 Sec. 19. Section 77-908, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 77-908 Every insurance company organized under the stock,
10 mutual, assessment, or reciprocal plan, except fraternal benefit
11 societies, which is transacting business in this state shall, on
12 or before March 1 of each year, pay a tax to the director of one
13 percent of the gross amount of direct writing premiums received by
14 it during the preceding calendar year for business done in this
15 state, except that (1) for group sickness and accident insurance
16 the rate of such tax shall be five-tenths of one percent, (2) for
17 property and casualty insurance, excluding individual sickness and
18 accident insurance, the rate of such tax shall be one percent,
19 and (3) for capitation payments made in accordance with the
20 Medical Assistance Act, the rate of tax shall be five percent. A
21 captive insurer authorized under the Captive Insurers Act that is
22 transacting business in this state shall, on or before March 1 of
23 each year, pay to the director a tax of one-fourth of one percent
24 of the gross amount of direct writing premiums received by such
25 insurer during the preceding calendar year for business transacted
26 in the state. The taxable premiums shall include premiums paid on
27 the lives of persons residing in this state and premiums paid for

1 risks located in this state whether the insurance was written in
2 this state or not, including that portion of a group premium paid
3 which represents the premium for insurance on Nebraska residents
4 or risks located in Nebraska included within the group when the
5 number of lives in the group exceeds five hundred. The tax shall
6 also apply to premiums received by domestic companies for insurance
7 written on individuals residing outside this state or risks located
8 outside this state if no comparable tax is paid by the direct
9 writing domestic company to any other appropriate taxing authority.
10 Companies whose scheme of operation contemplates the return of a
11 portion of premiums to policyholders, without such policyholders
12 being claimants under the terms of their policies, may deduct
13 such return premiums or dividends from their gross premiums for
14 the purpose of tax calculations. Any such insurance company shall
15 receive a credit on the tax imposed as provided in the Community
16 Development Assistance Act and section 77-27,222.

17 Sec. 20. Original section 77-908, Revised Statutes
18 Cumulative Supplement, 2006, is repealed.